

## REMARKS

This paper is responsive to any paper(s) indicated above, and is responsive in any other manner indicated below.

## PENDING CLAIMS

Claims 29-67 were pending, under consideration and subjected to examination in the Office Action. At entry of this paper, Claims 29-67 remain pending for further consideration and examination in the application.

## POSSIBLE DUPLICATE CLAIM OBJECT. UNDER 37 CFR '1.75 - TRAVERSED

Applicant respectfully traverses any 37 CFR '1.75 objection of claims 29-51 and 62-67 as allegedly being improper duplicate claims. It is well established under U.S. patent law that even a small change in scope between claims is sufficient to avoid a 37 CFR '1.75 duplicate claims objection with respect to such scope-differing claims, i.e., major multi-million dollar legal cases are fought over a single word in a claim. Applicant respectfully notes, at minimum, the following sufficient differences in scope between the alleged 37 CFR '1.75 duplicate claims:

More particularly, regarding claims 29-39 and 62-63 verses claims 40-50 and 64-65, respectively, claims 29-39 and 62-63 recite "concurrent operations", while claims 40-50 and 64-65 recite "parallel operations". It is respectfully submitted that the terms "concurrent" and "parallel" have somewhat differing meanings, with "parallel" not necessarily requiring "occurring at the same time". Applicant purposefully has filed claims with slightly differing terms/meaning, as a strategy to have slightly alternative positions in the event of any litigation. It is respectfully

submitted that there is sufficient difference between such claims so as to avoid any '1.75 duplicative claims issue.

Regarding claim 51 verses claim 66, claim 66 is more specific than claim 51, i.e., claim 66 recites (in relevant part): "wherein, in response to a read command received by said system interface unit, said controller carries out overlap operations of data transferring of data after the data processing by said controller from said controller to said host system via said system interface unit and of data transferring of subsequent data for the data processing by said controller from said non-volatile semiconductor memory." Thus, claim 51 is broader in that, for example, claim 51 does not require "data transferring ...from said controller", i.e., data could be transferred from a differing component/location. Thus, it is respectfully submitted that there is sufficient difference between such claims so as to avoid any '1.75 duplicative claims issue.

As the foregoing is believed to have addressed any '1.75 - duplicate claims concerns, preclusion (or alternatively, reconsideration and withdrawal) of the '1.75 - duplicate claims objection are respectfully requested.

#### **NON-STATUTORY DBL PAT. REJECT. - TERMINAL DISCLAIMER FILED**

The obviousness-type double patenting rejection of claims 29, 40, 51, 62, 64 and 66 as set forth within the Item 3 on page 3 of the "Detailed Action" of the Office Action, is respectfully traversed. However, in order to travel a path of least resistance to obtaining a patent for the present application, submitted herewith is an executed Terminal Disclaimer to overcome the non-statutory double patenting rejection. As a result of the foregoing, reconsideration and withdrawal of the double

patenting rejection of the subject claims are respectfully requested. The above statements, or the filing of any Terminal Disclaimer, should not be taken as an indication or admission that the rejection was valid, but is merely use of a procedural approach to obtain a patent (without prejudice or disclaimer) as quickly as possible given that the present application's patent may have coextensive term anyways as measured from the same original filing date, regardless of the Terminal Disclaimer. Further discussions/arguments concerning such rejection(s), claims and/or reference are left for the future if/when appropriate.

As a final point, it is respectfully submitted as a reminder that, if new art is now cited against any of Applicant's unamended claims, then it would not be proper to make a next action final.

#### **ALL CLAIMS IN CONDITION FOR ALLOWANCE**

In view of the fact that all prior art rejected claims appear allowable in view of the Terminal Disclaimer filed to obviate any double-patenting rejection, it is respectfully submitted that all presently pending claims are now in condition for allowance. A Notice of Allowance with respect to the present application is respectfully requested.

#### **EXAMINER INVITED TO TELEPHONE**

The Examiner is herein invited to telephone the undersigned attorneys at the local Washington, D.C. area telephone number of 703/312-6600 for discussing any Examiner's Amendments or other suggested actions for accelerating prosecution and moving the present application to allowance.

## **RESERVATION OF RIGHTS**

It is respectfully submitted that any and all claim amendments and/or cancellations submitted within this paper and throughout prosecution of the present application are without prejudice or disclaimer. That is, any above statements, or any present amendment or cancellation of claims (all made without prejudice or disclaimer), should not be taken as an indication or admission that any objection/rejection was valid, or as a disclaimer of any scope or subject matter. Applicant respectfully reserves all rights to file subsequent related application(s) (including reissue applications) directed to any/all previously claimed limitations/features which have been subsequently amended or cancelled, or to any/all limitations/features not yet claimed, i.e., Applicant continues (indefinitely) to maintain no intention or desire to dedicate or surrender any limitations/features of subject matter of the present application to the public.

## **CONCLUSION**

In view of the foregoing amendments and remarks, Applicant respectfully submits that the claims listed above as presently being under consideration in the application are now in condition for allowance.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR '1.136. Authorization is herein given to charge any shortage in the fees, including extension of time fees and excess claim fees, to Deposit Account No. 01-2135 (Case No. 501.34466CC4) and please credit any excess fees to such deposit account.

Based upon all of the foregoing, allowance of all presently-pending claims is respectfully requested.

Respectfully submitted,

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